



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the application of: Brian Arthur Cavill

Examiner: Tran, Hoang Q.

Serial No. 10/535,405

Group Art Unit: 2874

Filed : May 18, 2005

Docket No.: 15430.0001

For: PROTECTIVE DEVICE

**Mail Stop AF**

U.S. Patent and Trademark Office

Customer Service Window

Randolph Building

401 Dulaney Street

Alexandria, VA 22314

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Applicants request review of the rejections in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

A petition for a one-month extension of time is submitted herewith.

The review is requested for the following remarks.

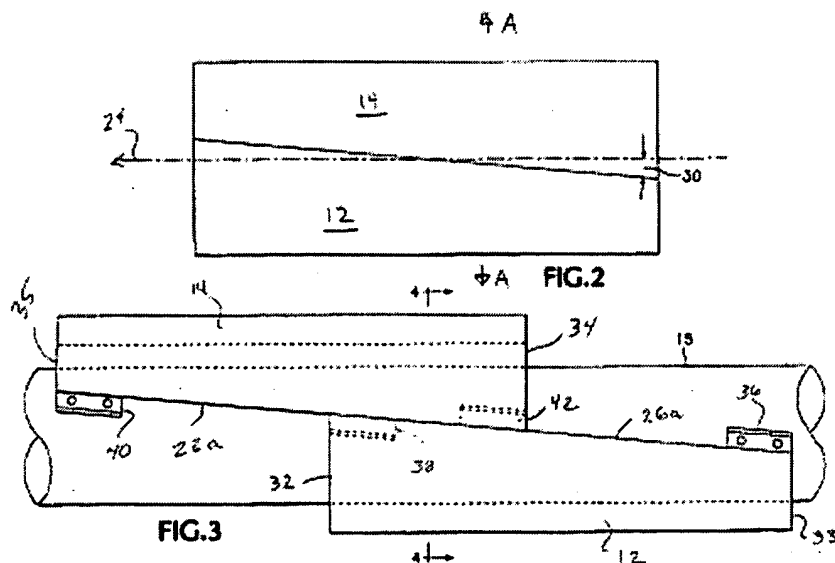
Claims 1 and 4-10 are pending.

***Rejection of claims under 35. U.S.C. §102***

The Examiner has maintained the rejection of claims 1-7 and 9-10 under 35 U.S.C. §102 (b) as being anticipated by U.S. Patent No. 6,431,216 to Briscoe ("Briscoe"). See Office Action at p. 2-4. Claims 4-7 and 9 are dependent on claim 1. Claims 2 and 3 have been previously cancelled (see Reply to Office Action filed June 7, 2006) thus rendering this rejection moot with respect to these claims.

The Examiner contends that Briscoe "teaches a protective device for use in the protection of at least a portion of an elongated article (Fig 1), the protective device including a main body, first and second parts which connect[] together such that (Fig 8), ... the first and second parts each having two longitudinal extending side edge portions ...." See Office Action at p. 3. The Examiner further asserts that Briscoe "clearly shows two side portions extending parallel with the longitudinal axis in Figure 3." See Advisory Action at p. 2.

Briscoe discloses "a protection device for protective covering for a cylindrical structure such as a pipe, wire or cable." See col. 3, lines 24-26 of Briscoe. Briscoe does not describe a protection device that includes a main body, first and second parts which are connectible together such that, in an assembled position the main body has a chamber therein, with opposed ends and a central longitudinal axis extending between the opposed ends, **the first and second parts each having two longitudinal extending side edge portions which extend generally parallel with the longitudinal axis.** (emphasis added). See claim 1. On the contrary, Briscoe describes a protection device that consists of two interlocking sections which sections "result from splitting a cylinder lengthwise along a line that is slightly inclined relative to the longitudinal axis 24 of the cylinder." (See FIG. 2.)" (emphasis added). See col. 3, lines 61-65 of Briscoe. For convenience, Figs 2 and 3 of Briscoe are shown below:

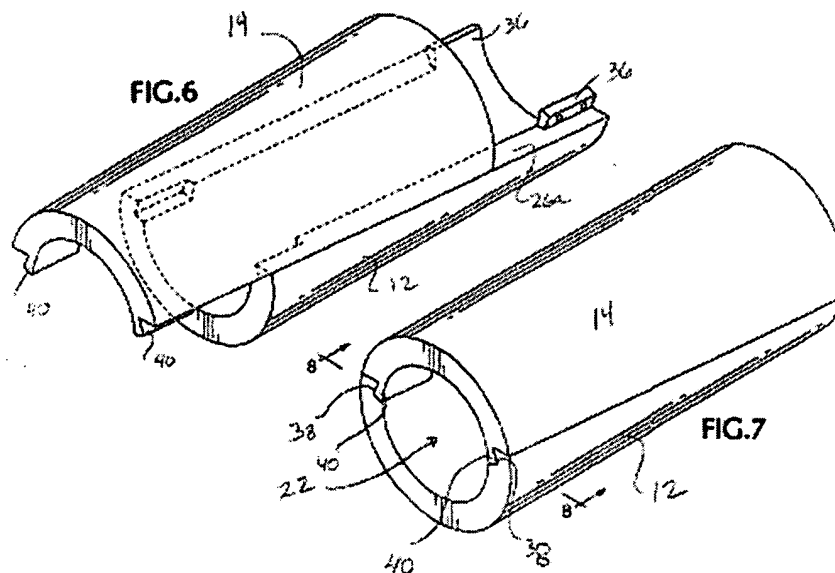


Briscoe further states that "[a]s shown particularly in FIGS. 2 and 3, the mating surfaces of the two sections are inclined at an angle 30 with respect to the longitudinal axis 24 of the assembled tube. An angle of inclination of from 5 degree to 10 degree from the longitudinal axis 24 or centerline allows the two sections to be assembled easily on an existing installed cylindrical structure 15 without the necessity of disconnecting the structure 15 to install the protection device 10." (emphasis added). See col. 4, lines 27-34 of Briscoe.

Furthermore, Briscoe does not describe a protection device wherein the first and second parts are partially circular when viewed in cross-section, the first part including a major segment

of a circle and the second part forming a minor segment of a circle, and the side edge portions of the first or second part includes **a recessed section which substantially extends from one end thereof to the other for receiving the side edge portion of the other part.** (emphasis added).

See claim 1. As illustrated in Figs. 6 and 7 of Briscoe below, the recessed section does not extend from one end to the other for receiving the side edge portion of the other part.



Accordingly, independent claim 1 and claims that depend therefrom are not anticipated by Briscoe. Applicant respectfully requests reconsideration and withdrawal of this rejection.

***Rejection of claim under 35. U.S.C. §103***

The Examiner has maintained the rejection of claim 8 under 35 U.S.C. §103(a) as being unpatentable over Briscoe in view of U.S. Patent No. 6,730,846 to Muller ("Muller"). See Office Action at pages 4-5. Claim 8 is dependent on claim 1.

As previously explained, Briscoe does not teach or suggest a protection device described in claim 1. Muller does not remedy this defect in Briscoe. Muller describes "[a] universal cable fitting for a wide variety of applications includes a longitudinally slit sleeve tube (MR) and sealing bodies (DKG, DK, DKDP, DKS, DKO) on the ends of the sleeve tube." See Abstract.

Applicant : Brian Arthur Cavill  
Serial No. : 10/535,405  
Filed : May 18, 2005  
Page : 4 of 4

Attorney's Docket No.: 15430.0001

Mueller does not describe a protection device that includes a main body, first and second parts which are connectible together such that, in an assembled position the main body has a chamber therein, with opposed ends and a central longitudinal axis extending between the opposed ends, the first and second parts each having two longitudinal extending side edge portions which extend generally parallel with the longitudinal axis. See claim 1. Muller further does not describe a protection device wherein the first and second parts are partially circular when viewed in cross-section, the first part including a major segment of a circle and the second part forming a minor segment of a circle, and the side edge portions of the first or second part includes a recessed section which substantially extends from one end thereof to the other for receiving the side edge portion of the other part. See claim 1.

None of the above-cited references, alone or in combination, teach or suggest the protective device described in claim 1. Since claim 8 depends on claim 1, it is allowable over Briscoe and Muller for at least the reasons described above. Applicant respectfully requests reconsideration and withdrawal of this rejection.

### CONCLUSION

In light of the foregoing remarks, Applicant respectfully contends that all conditions of patentability are met. Allowance of the claims is therefore respectfully solicited.

The Director is authorized to charge any fees required by the present Request to Deposit Account 19-4293.

Respectfully submitted,

Date: 12-18-06



Harold H. Fox  
Reg. No. 41,498

Steptoe & Johnson LLP  
1330 Connecticut Avenue, NW  
Washington, DC 20036-1795  
Telephone: 202-429-3000  
Facsimile: 202-429-3902